



City of Johnson City Tennessee

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BOARD OF ZONING APPEALS CITY OF JOHNSON CITY, TENNESSEE

Minutes of the Meeting of
May 8, 2012

The Board of Zoning Appeals held its regular meeting on May 8th at 9:00 a.m. in the City Commission Chambers of the Municipal and Safety Building.

Members Present

Dwight Harrell, Chairman
Steve Meroney, Vice-Chairman
Jeff Benedict
Tim O'Neil

Staff Present

Steve Neilson, Development Coordinator
Tim Seaton, Engineering Inspector
Jessica Harmon, Planner

Mr. Harrell called the meeting to order.

The Minutes of the April 10, 2012 meeting were considered for approval.

MOTION: Benedict To approve the minutes of the April 10, 2012 meeting.

SECOND: O'Neil

VOTE: Approved 4-0.

Chairman Harrell requested Case No. 758-3 be moved to the beginning of the agenda. There were no objections.

Case No. 758-3

Mr. Neilson indicated that this was a special exception request to allow sidewalk dining at 227 E. Main Street for Capone's Restaurant. The property is located in the B-2, Central Business District. The petitioner has submitted a drawing showing a 250 square foot dining area. There is a planter in front of the restaurant, but they will be able maintain the minimum four foot travel aisle required. He then recommended approval of this request.

**MOTION: Meroney To approve the special exception request for sidewalk dining at
227 E. Main Street.**

SECOND: Benedict

VOTE: Approved 4-0.

Case No. 758-1

Mr. Neilson indicated that this was a variance request to the front setback from a maximum of 5' to 10' at 71 Cherry Street. The property is located within a B-2, Central Business District. The petitioner is requesting a variance due to a ten foot wide power line easement along the front of the property which prevents him from moving the buildings closer to the street. This hardship is unique to the property and not the fault of the petitioner. He then recommended approval of this request.

Mr. Meroney pointed out that the petitioner was not at the meeting and felt this item should be deferred so that the petitioner could answer any questions the Board may have.

Mr. Benedict stated he understood the reasoning for lining up buildings, but this was not the case in this situation where the building on the adjoining this property was set so far back.

MOTION: Benedict To approve this front yard variance request at 71 Cherry St.

SECOND: O'Neil

VOTE: Approved 3-1.

Case No. 758-2

Mr. Neilson stated that this was a request for a variance to construct a 1,152 square-foot, 26-foot tall 2-car garage with a second story studio. The maximum size of an accessory building is 850 square feet and the maximum height of a building is 15 feet.

The petitioner indicates that the house does not have a garage and due to the steep topography it was not feasible to connect it to the house. Mr. Neilson indicated that he had viewed the site and it would be possible to attach a garage, but it would be expensive. He stated that due to the steep topography, this would meet the requirements for a variance and recommended approval of this request.

Mr. Harrell has questions about the floor plan of the studio. The floor plan included a bathroom and an area that could be used as a kitchen.

The petitioner, Mr. Beringer indicated that the studio would have a sink and probably a microwave oven, but not a full kitchen. The intent was to create a place where his mother in-law could stay for a few days at a time and have a garage to keep his cars. The intent was not to create a permanent apartment.

Mr. Meroney was concerned that although the petitioner had no intention to use it as an apartment, as some point in the future if the house is sold, the new owners might try to attempt to rent it out as an apartment.

Mr. Neilson read the definition of a dwelling unit. He did not feel that the studio met the definition of a dwelling unit, because it was not intended for rental or lease, nor was intended for permanent occupancy. He also stated that there is always a chance that a structure could be converted into an apartment like any large home could be, but that should be addressed by Code Enforcement at the time it becomes a problem.

Mr. Harrell indicated that he was concerned about the potential of it being rented out as an apartment. He then asked staff if there were any discussion about allowing accessory apartments as part of the proposed residential code amendments. Mr. Neilson indicated that there has been some discussion to allow mother-in-law apartments where a member of the family may live in a small attached or detached apartment, which could not be rented out; however, nothing has been approved. If this is approved, there will a potential that it could be rented out.

Mr. O'Neil pointed out that if this structure was attached to the main house this wouldn't even be before them. The next buyer could use the area as an art studio or home office. He pointed out that it would be possible to rent out the area to a college student, but that option was available with any big house.

MOTION: Harrell To approve this variance request, conditioned upon a note being added to the building permit, stating that the studio would not be available for rental or lease and that it would only be used by family members.

SECOND: Benedict

VOTE: Approved 3-1.

There being no further business, the meeting adjourned at 9:27 a.m.

APPROVED:

Dwight Harrell, Chairman
Board of Zoning Appeals